

SixTen and Associates

Mandate Reimbursement Services

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**COMMISSION ON
STATE MANDATES**

Paula Higashi, Executive Director
Commission on State Mandates
U.S. Bank Plaza Building
980 Ninth Street, Suite 300
Sacramento, CA 95814

RE: PETITION FOR RULEMAKING
Title 2, CCR, Section 1189.1

Dear Ms. Higashi:

Please find enclosed a petition for rulemaking to establish cost accounting principles, procedures, and standards.

It does not appear that your regulations require me to serve any other parties at this time, however, if you determine otherwise, please let me know.

Sincerely,



Keith B. Petersen

Petition Prepared by:
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BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

PETITIONER:)	PETITION FOR RULEMAKING
)	
)	Pursuant to Title 2, California Code of
)	Regulations, Section 1189.1
Keith Petersen, President)	
SixTen and Associates)	To Establish Cost Accounting Principles,
)	Procedures, and Standards
_____)	

PART I: AUTHORITY FOR THE PETITION

The Commission on State Mandates has the authority pursuant to Title 2, California Code of Regulations, Section 1189.2, subdivision (a) to “ . . . upon its own motion or upon granting a petition filed pursuant to Section 1189.1 of these regulations, adopt an order to institute a rulemaking proceeding in accordance with the procedures of Sections 11346.2, 11346.4, 11346.8 and 11346.9 of the Government Code.” Pursuant to Title 2, CCR, Section 1189.1, subdivision (a), “Any person may petition the commission to request rulemaking hearings.” Title 2, CCR, Section 1181.1, subdivision (k), defines “Interested person” to mean any individual, local agency, school district, state agency, corporation, partnership, association, or other type of entity, having an interest in the activities of the

Commission on State Mandates.” Petitioner requests the Commission to take notice that the petitioner prepares test claims, incorrect reduction claims, annual reimbursement claims, and other actions as an agent of school districts eligible for state reimbursement of mandated costs, and therefore has an interest in the activities of the Commission.

PART II. REASONS FOR THE PETITION

The petitioner proposes to add nine new sections to the Commission on State Mandates regulations to establish cost accounting principles, procedures and standards to implement the provisions of Government Code (beginning at Section 17500) on reimbursement of state mandated local programs.

In furtherance of this petition, the petitioner requests the Commission take notice of:

(1) The recent audit report of the Bureau of State Audits which reports the findings of their review of certain School Bus Safety annual mandate reimbursement claims.

(2) The recent request of the State Controller to amend the language of the parameters and guidelines for the Investment Reports annual mandate reimbursement claims, and the responses thereto by the interested parties and persons.

(3) The current Commission workload for incorrect reduction claims.

The above referenced documents evidence apparent ongoing disputes, disagreements, or confusion by either, or both, claimants and state agencies regarding appropriate mandate reimbursement cost accounting principles, procedures and

standards. This situation burdens petitioner and claimants who endeavor to prepare accurate and complete claims for reimbursement in compliance with state law and Commission regulations.

PART III. THE RULEMAKING REQUESTED

The following new sections are proposed:

Article 1. General

1181.5 Cost Accounting Definitions

Unless the context of other sections in this chapter require otherwise, the following definitions shall apply to the rules in this chapter.

(a) "Direct costs" means those expenditures or calculated costs specifically identifiable to the mandate implementation.

(b) "Indirect costs" means those expenditures or calculated costs incurred for a common or joint purpose benefiting more than one cost objective and which are not readily identifiable to specific cost objective.

(c) "One-time costs" means those costs to be reimbursed which generally occur for planning and preparation, modification of existing procedures and systems, capital and equipment expenditures, and other similar starting activities prior to the routine or repetitive activities required by the mandate.

(d) "Ongoing costs" means those costs to be reimbursed which relate to the annual, routine, or repetitive activities required by the mandate.

(e) "Allowable overhead costs" means those costs to be reimbursed that are the indirect costs applied to the direct costs of implementing the mandate, using a cost-finding method generally applicable to the type of claimant or as directed by state law for the type of claimant.

(f) "Fringe benefits" means the benefits paid to employees or on behalf of employees in addition to wages or salaries and typically include regular

1 compensation paid for authorized absences, social security, pension plans, health
2 insurance, worker's compensation insurance and similar payments.

3
4 (g) "Internal service costs" are those costs charged within the local government
5 agency for materials and services provided to units of the local government agency.

6
7 (h) "Actual costs" means those costs to be reimbursed which have been incurred
8 or properly accrued pursuant to standards of governmental accounting generally
9 applicable to the type of claimant or as directed by state law for the type of
10 claimant.

11
12 (i) "Estimated costs" means a calculation of current or future fiscal year costs
13 to be reimbursed, such calculations being based on past costs of implementation
14 of the mandate with regard to probable changes in level of service, or upon
15 probable methods of implementing the mandate.

16
17 (j) "Increased level of service and/or costs" means the costs for implementing
18 new programs or a higher level of service of an existing program.

19
20 (k) "Allocation formula or uniform allowance" means a dollar amount unit cost
21 rate or other performance standard applied to specific activities of mandate
22 implementation, or for the entire scope of mandate implementation, as a method of
23 reimbursement in lieu of reimbursing the actual costs of implementing part or all of
24 the mandate, such dollar amounts and units to be determined by the commission
25 pursuant to the adoption or amendment of the parameters and guidelines or as may
26 be otherwise specified in the mandate statute or executive order.

27
28 (l) "Costs to be reimbursed" means all necessary, proper, or reasonably related
29 costs, determined according to generally accepted cost accounting principles, for
30 complete implementation of the mandate as described in the parameters and
31 guidelines, regulations, statute or executive order establishing the mandate,
32 including the full direct and indirect costs of labor, supplies, services, equipment,
33 facilities, and capital.

34
35 (m) "Allowed amount" means the amount of claimed costs to be reimbursed to
36 be paid by the Controller from appropriations for that purpose.

37
38 (n) "Local government agency" means the government entities defined in

Government Code sections 17518, 17519, and 17520.

1181.6 Principles of reimbursement

Unless the context of other sections in this chapter requires otherwise, the following principles of reimbursement shall apply to the findings, decisions, and rules of the commission:

(a) The scope of the mandate activities shall be described by the parameters and guidelines and derive from the language of the statute, regulation, or executive order which established the mandate and the statement of decision on a test claim.

(b) The approved methods of implementing the mandate activities shall allow flexibility for local implementation in consideration of the diverse nature of the local government agencies charged with its implementation, the constraints of other state laws and local laws, contracts and legal liabilities of the local government agency existing at time of the mandate, and adopted policies of the local government.

(c) There is a presumption that the method of local implementation shall first utilize existing staff and other agency resources, and where that is impractical, there is a presumption that the local government agency has determined the most reasonable of the alternatives of increasing agency staffing and other resources or purchasing services for implementation of the mandate.

(d) The costs to be reimbursed shall be the direct and indirect costs of local government agency resources and purchased services applied to the mandated activities less any reimbursement received from government sources for the purpose of implementing the mandated and less any fees collected from performing the mandate activities.

Article 6.1. Reimbursement Claims

1186.1 Purpose and Scope

The purpose of this article is to establish a method of reimbursement for state mandated local programs. This article shall apply to the reimbursement claims filed by local government agencies pursuant to Government Code sections 17560 and 17561.

1186.11 Time and form for filing claims and amended claims

(a) Reimbursement claims and estimated claims for costs to be reimbursed shall be filed at the times indicated in Government Code sections 17560 and 17561. Amended reimbursement claims must be accepted by the Controller for a period of one year following the filing date specified.

(b) Claims for reimbursement shall be filed with the Controller in the form and manner specified by the parameters and guidelines and this article. The form and instructions provided by the Controller are for the convenience of the claimant but do not constitute regulations.

1186.12 Controller's acceptance and audit of claims

(a) The amount of costs to be reimbursed claimed by the local agency in its reimbursement claim shall be the allowed amount for reimbursement unless adjusted by audit by the Controller.

(b) The Controller may, as a function of its acceptance of the claim, reduce the allowed amount of a claim for costs claimed outside the scope of the parameters and guidelines or for calculation errors by the claimant. No reduction of the allowed amount shall be made due to insufficient appropriations, or by use of time and unit cost standards or other standards of general application not adopted by action of the commission or regulation adopted by the Controller. Any change to the claimed costs to be reimbursed prior to the acceptance of the claim require written explanation to the claimant within thirty days of the action explaining the action in a manner sufficient to identify the mandate program by statute number or executive order with a short descriptive phrase, the fiscal period of the claim, the type of action taken, the costs elements of the claim adjusted, the statute or regulation which allows the action(s), and whether the action constitutes the final determination of the allowed amount for the claim.

(c) Notwithstanding the date of appropriation(s) for the mandate, or the date of partial or full payment of the claim, the amount of costs to be reimbursed claimed by the local agency shall be the final determination of the allowed amount for the claim if not changed by audit of the Controller within three years of date for filing or date filed, whichever is later, and any action taken pursuant to subsection (b) of this Section shall be automatically void at the expiration of this three year period.

1 (d) Any request for documentation from the claimant in excess of the documents
2 required in the Controller's claiming instructions constitutes an audit of the claim by
3 the Controller. Audits conducted from the offices of the Controller or at the offices
4 of the claimant shall require two-week written notice to the claimant unless
5 otherwise agreed by the parties. The notice shall include an explanation of the
6 mandate activities to be audited and specify the documents required. Each and
7 every adjustment to the claimed costs to be reimbursed pursuant to an audit shall
8 include a written explanation of the mandate activities affected, the amounts
9 claimed, amounts allowed, the statute or regulation which allows the adjustment.
10 The audit report shall not be issued unless the claimant has been allowed at least
11 60 days to respond to the adjustments after they are presented at an exit
12 conference. An audit report of findings is unenforceable by the state unless the
13 audit report is published as a final document of findings and issued by mail to the
14 claimant before expiration of the period allowed for audits stated in Government
15 Code section 17558.5.

16
17 (e) No reduction in the amount paid or payable for any annual reimbursement
18 claim is enforceable after the expiration of the period allowed for audits stated in
19 Government Code section 17558.5.

20
21 **1186.13 Controller's Payment of claims**

22
23 (a) The Controller shall pay the allowed amount of claims from appropriations
24 made for that purpose.

25
26 (b) Any payment or change in payment made upon the claim shall be
27 accompanied by a written explanation to the claimant within thirty days of the action
28 explaining the action in a manner sufficient to identify the mandate program by
29 statute number or executive order with a short descriptive phrase, the fiscal period
30 of the claim, the type of action taken, the statute or regulation which allows the
31 action(s), other mandate accounts affected by the transaction, and whether the
32 action constitutes a final or complete payment of the allowed amount for the claim.

33
34 **1186.14 Objections to Controller's actions on claims**

35
36 Objections to a change in the allowed amount of a reimbursement claim or to a
37 payment action, pursuant to an audit or any other action of the Controller, must be
38 submitted in writing to the Controller by the claimant within sixty days of a Controller's

notification of action. Any dispute not resolved between the Controller and claimant within sixty days of the claimant's written objections, unless both parties waive time, can then be submitted to the commission as an incorrect reduction claim pursuant to section 1185 of this chapter.

1186.15 Cost Accounting Principles

(a) Unless otherwise specified by the mandate or parameters and guidelines, there is no specific method of cost accounting required to determine the costs to be reimbursed. Any generally accepted cost accounting method which fairly measures the cost of resources applied to the mandate is acceptable.

(b) Unless otherwise specified by the mandate or parameters and guidelines, the following cost accounting methods are acceptable to determine the costs to be reimbursed:

(1) For employee services, an hourly rate for each employee can be determined by dividing the total annual or annualized employee wage or salary and fringe benefits by 1800 hours. The hourly rate is then applied to the total hours of mandate activity contributed by the employee during the fiscal year without regard to daily or other periodic totals.

(2) For materials and supplies, the cost of the item to the local agency plus the internal service costs of providing the item to the mandate program.

(3) For contracted and purchased services, the cost of the service to the local agency plus the internal service costs of providing the item to the mandate program. Where the mandate program uses a portion of services which are aggregate billed by the provider of services, the cost of the mandate program portion shall be determined by the hours of service applicable to the mandate; or in the case of a fixed fee/lump sum retainer agreement, the portion applicable to the mandate can be allocated as a percentage of the total service to the local agency; or any other method which reasonably reflects the portion of the aggregate bill applicable to the mandate program activity.

(4) For equipment costs, the total operating costs and cost of acquisition of the equipment can be allocated to the mandate program activity on some

reasonable basis such as units of service or hours of service. Rent or lease of equipment is considered a subsection (3) purchased service.

(5) For facility costs, the cost of construction, renovation, rehabilitation, or remodeling shall be determined according to standards established for public entities, and shall include the cost of capital in the form of financing costs when incurred. Lease and rental expenses shall be considered a subsection (3) purchased service.

(6) For indirect costs, the indirect cost rate established for the local agency pursuant to annual state financial reporting requirements without prior offset by program expenditure recoveries or direct mandate activity costs shall be applied to all direct mandate activity costs.

1186.16 Recordkeeping for Costs To Be Reimbursed

(a) The Controller shall not require claimants to modify their recordkeeping and accounting methods or financial reporting system to be eligible for mandate reimbursement. Requirements for documentation in support of costs to be reimbursed which exceed documentation generally available from recordkeeping and accounting systems appropriate to the type of claimant must be specified in the parameters and guidelines. Local agency documentation typically available to support costs to be reimbursed are:

- (1) Accounting journals of original entry;
- (2) General and subsidiary ledgers;
- (3) Purchase orders, inventories, invoices and receipts;
- (4) Warrant registers and canceled warrants;
- (5) Personnel files, organization charts, duty statements, and pay rate schedules;
- (6) Governing body resolutions, asset registers, and contracts;
- (7) Intra-agency memoranda, meeting agendas and notices, activity log sheets, and other contemporaneous documentation.

(b) Claims, workpapers and supporting documentation for claimed costs to be reimbursed shall be retained by the claimant, and be subject to audit by the state, for the period specified by Government Code Section 17558.5. Declarations signed by appropriate persons may be used in the absence of independent documentation.

1 (c) Typical cost accounting work papers and documentation to be retained and
2 available for audit in support of costs to be reimbursed are as follows:

3
4 (1) for the cost of employee and volunteer services:

5
6 (A) an allocation schedule showing the hours applied to each
7 mandate activity by local agency employees, the hourly rate including
8 employee benefits, and the total cost claimed for each employee.

9
10 (B) an allocation schedule showing the hours applied to each
11 mandate activity by volunteer labor and any related cost of that
12 volunteer labor to the agency.

13
14 (2) for the cost of materials and supplies: copies of invoices, inventory
15 charge sheets, or allocation schedules calculating the cost of items
16 purchased for the mandate activities.

17
18 (3) for the cost of contracted and purchased services: a schedule
19 describing the type of service provided, the dates of service, the hours of
20 service and an allocation schedule to show the portion applied to mandate
21 activities with reference to copies of contracts, invoices, equipment and
22 facilities leases, and receipts.

23
24 (4) for the cost of equipment: copies of invoices, agency asset register,
25 or similar evidence of cost and an allocation schedule to show the portion
26 applied to mandate activities.

27
28 (5) for the cost of construction, rehabilitation, remodeling, purchase, or
29 capital improvement; copies of documents which may be generated
30 pursuant to the agency's usual method of capital improvement accounting,
31 with an allocation schedule to indicate the portion applied to mandate
32 activities.

33
34 (6) for the indirect costs: a copy of the indirect cost rate established for
35 the agency according to accounting methods mandated by the state for
36 annual financial reporting to the state for this type of agency, with a schedule
37 indicating any modifications to this rate required by the parameters and
38 guidelines.

PART IV. CERTIFICATION

I certify by my signature below, under penalty of perjury, that the statements made in this document are true and complete of my own knowledge or information or belief.

Executed on December 2, 2002, at San Diego, California, by:



Keith Petersen, President
SixTen and Associates

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